

Application No.: 10/539,641
Amdt dated: June 1, 2007
Reply to Office action of: April 6, 2007

REMARKS/ARGUMENTS

This Amendment is filed in response to the Office action that was mailed on April 6, 2007. Claims 1-34 are pending in this Application. By this Amendment, Claims 1-6, 8-15 and 17-34 are amended, and Claim 7 is canceled without prejudice. The amendments do not introduce new matter as they are fully supported by the Claims, Specification and Drawings as originally filed or are inherent characteristics thereof. Applicant respectfully requests reconsideration and allowance of all Claims in view of the following remarks.

Claims 1-34 were objected to for an informality of reciting reference numerals within the claims. Applicant amended Claims 1-15 and 17-34 to remove the reference numerals from the claims. Claims 26 and 27 were further amended to clarify the structural features of the claims in light of the removal of the reference numerals from the claims. Based on the foregoing, Applicant respectfully requests that the Examiner reconsider and remove the claim objections.

Claims 1-9 and 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,497,317 to Boschetti (Boschetti '317). To be anticipating, a prior art reference must disclose each and every limitation of the claimed invention, the prior art must be enabling, and the prior art reference must describe the claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention. *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339 (Fed. Cir. 2000).

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In the Office action it is indicated that Boschetti `317 discloses a device including a malleable ring member (4) and a membrane (2) fixedly attached to a perimeter of the ring member (Figs. 1, 3 and 4, column 2, lines 65-68, column 3 and column 4, lines 1-63). Applicant respectfully traverses this rejection.

Claim 1 of the present Application includes the membrane being fixedly attached around the perimeter of the ring member. Boschetti `317, however, teaches the ring (1) being removably inserted into the container (2) or bag (see Boschetti `317 Figs. 1-4, column 4, lines 3-5, column 3, lines 11-16, and the Abstract). Applicant respectfully submits that with the ring (1) of Boschetti `317 being removably inserted into the container (2), the ring (1) of Boschetti `317 is not fixedly attached to the container. Based on the foregoing, Applicant respectfully submits that Claim 1 is allowable over Boschetti `317. Applicant further respectfully submits that dependent Claims 2-9 and 11 are also allowable over Boschetti `317 as depending from an allowable claim.

Claims 1, 3-6, 8-13, 26-27 and 29-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,450,983 to Rambo (Rambo `983). In the Office action it is indicated that Rambo `983 discloses a retraction device with a malleable ring member (10) and a flexible sleeve or membrane (8) attached to a perimeter of the ring wherein the membrane is made from an elastic material (Figs. 1, 6-9, 16, 18, 40-41, 63 and 66, column 6, lines 3-67, columns 7-8 and column 9, lines 1-33). Applicant respectfully traverses this rejection.

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Amended Claim 1 includes the limitations of Claim 7, as originally filed. More particularly, Claim 1 was amended to include the membrane being a bias-woven or knitted fabric. Claim 26 was also amended to include the membrane being a bias-woven or knitted fabric. As Claim 7 was not indicated in the Office action to be anticipated by Rambo '983, Applicants respectfully submit that amended Claims 1 and 26 are allowable over Rambo '983. Additionally, Rambo '983 fails to teach the membrane being a bias-woven or knitted fabric. Instead, Rambo '983 teaches the membrane being a polymeric film (see Rambo '983, column 6, lines 26-33). Based on the foregoing, Applicant respectfully submits that amended Claims 1 and 26 are allowable over Rambo '983. Applicant further respectfully submits that Claims 3-6, 8-13, 27 and 29-31 are also allowable as depending from allowable claims.

Claims 1-6, 8, 19, 20 and 26-29 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,143,082 to Kindberg et al. (Kindberg '082). In the Office action it is indicated that Kindberg '082 discloses a surgical device to temporarily reposition body tissues and organs including a ring member having cords (20) and a membrane (15) made of a flexible material such as a fabric (FIGS. 1-3, column 2, lines 56-68, column 3 and column 4, lines 1-56). Applicant respectfully traverses this rejection.

As indicated above, Claim 1 was amended to include the elements of Claim 7, and Claim 26 was also amended to include the membrane being a bias-woven or knitted fabric. Similar to Applicant's argument against Rambo '983, above, Claim 7 was

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not indicated in the Office action to be anticipated by Kindberg `082. Additionally, Kindberg `082 fails to teach the membrane being a bias-woven or knitted fabric. Based on the foregoing, Applicant respectfully submits that amended Claims 1 and 26 are allowable over Kindberg `082. Applicant further respectfully submits that Claims 2-6, 8, 19, 20 and 27-29 are also allowable as depending from allowable claims.

Claims 14-25 and 32-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rambo `983 in view of U.S. Patent No. 5,161,806 to Balsells (Balsells `806). In the Office action it is indicated that Rambo `983 discloses all elements of the claimed invention except for a reinforcement member in the ring to adjust the flexibility of the ring. It is further indicated in the Office action that it is well known to modify the flexibility of a hollow ring by reinforcing the ring using a metallic component (14) embedded in a plastic component as demonstrated by Balsells `806 (column 2, lines 1-12). Additionally, it is indicated in the Office action that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a selectively malleable ring in the device of Rambo `983 by providing a hollow ring with reinforcement, as demonstrated by Balsells `806, since it was well known in the art to provide reinforcement in a hollow ring to change its malleability. Applicant respectfully traverses this rejection.

As indicated above, amended independent Claims 1 and 26 are allowable over Rambo `983 as having a membrane being a bias-woven or knitted fabric, and Applicant respectfully submits that Balsells `806 does nothing to correct this deficiency. Based on

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the foregoing, Applicant respectfully submits that neither Rambo '983 nor Balsells '806, either alone or in combination, teaches the elements of Claims 14-25 and 32-34, and that Claims 14-25 and 32-34 are allowable over Rambo '983 in view of Balsells '806. Applicant further respectfully submits that Claims 14-25 and 32-34 are also allowable as depending from allowable independent claims.

Applicants respectfully request that a timely Notice of Allowance be issued in this case. If the Examiner believes that a telephone conference with Applicant's attorney might expedite prosecution of the Application, the Examiner is invited to call at the telephone number indicated below.

Sincerely,

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